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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision:13.07.2023

+ **ITA 367/2023**

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2

..... Appellant

Through: Mr Sanjay Kumar, Sr. Standing
Counsel with Ms Easha Kadian and
Hemlata Rawat, Advs.

versus

NAGAR DAIRY PVT. LTD.

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM No.34966/2023

1. Allowed, subject to just exceptions.

**CM No. 34965/2023 [Application filed on behalf of the appellant/revenue
seeking condonation of delay of 14 days in re-filing the appeal]**

2. This is an application moved on behalf of the appellant/revenue
seeking condonation of delay in re-filing the appeal.

2.1 According to the appellant/revenue, there is a delay of 14 days in re-
filing the appeal.

3. For the reasons given in the application, the delay is condoned.

4. Accordingly, the application is disposed of.

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5. This appeal concerns Assessment Year (AY) 2009-10.
6. The appellant/revenue seeks to assail the order of the Income Tax Tribunal [in short, “Tribunal”] dated 23.11.2022.
7. Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the appellant/revenue informs us that the issue raised in the present appeal is covered by the decision dated 01.06.2023 rendered by this Court in ITA No. 332/2023, ITA No. 323/2023 & ITA No. 327/2023.
8. The moot point which arose for consideration before the Tribunal was, whether additions could be made where incriminating material was not found for the Assessment Year in issue. The Tribunal in this regard has ruled against the appellant/revenue.
9. This very similar issue arose in the aforementioned appeals as well, where we have ruled that no substantial question arises for our consideration.
10. Accordingly, the above-captioned appeal is disposed of, in the terms of our decision rendered in the aforementioned ITAs.

**RAJIV SHAKDHER
JUDGE**

**GIRISH KATHPALIA
JUDGE**

JULY 13, 2023/RY

Click here to check corrigendum, if any